

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_  
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REGULATING PRESCRIPTION DRUG BENEFITS OFFERED BY  
5 AN INSURER, HEALTH SERVICE CORPORATION, OR HEALTH MAINTENANCE ORGANIZATION;  
6 PROHIBITING CERTAIN ACTS OF DISCRIMINATION AND REQUIRING ACTS OF NONDISCRIMINATION  
7 REGARDING PHARMACIES LOCATED IN MONTANA; AMENDING SECTIONS 33-22-101 AND 33-31-111,  
8 MCA; AND PROVIDING AN APPLICABILITY DATE."

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10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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12 **Section 1.** Section 33-22-101, MCA, is amended to read:

13 **"33-22-101. Exceptions to scope.** Parts 1 through 4 of this chapter, except 33-22-107,  
14 33-22-110, 33-22-111, 33-22-114, 33-22-125, 33-22-130 through 33-22-136, 33-22-141, 33-22-142,  
15 33-22-243, ~~and~~ 33-22-304, and [section 2], and part 19 of this chapter do not apply to or affect:

16 (1) any policy of liability or workers' compensation insurance with or without supplementary  
17 expense coverage;

18 (2) any group or blanket policy;

19 (3) life insurance, endowment, or annuity contracts or supplemental contracts that contain only  
20 those provisions relating to disability insurance as:

21 (a) provide additional benefits in case of death or dismemberment or loss of sight by accident or  
22 accidental means; or

23 (b) operate to safeguard contracts against lapse or to give a special surrender value or special  
24 benefit or an annuity in the event that the insured or annuitant becomes totally and permanently disabled,  
25 as defined by the contract or supplemental contract;

26 (4) reinsurance."  
27

28 NEW SECTION. **Section 2. Coverage for prescription drugs.** (1) This section applies to individual  
29 and group policies, contracts, or agreements for health or disability insurance and to subscriber or  
30 membership contracts and certificates of insurance to provide health care services that are delivered or

1 issued for delivery in this state.

2 (2) An entity to which this section applies that provides coverage for prescription drugs:

3 (a) may not discriminate in payment for those drugs between a pharmacy located in Montana and  
4 a pharmacy located outside Montana on the basis of the number of refills of a prescription that may be  
5 purchased in advance by the insured; and

6 (b) must permit an insured to obtain prescription drugs from a pharmacy located in Montana that  
7 is willing to match the price charged to the insured by a mail service pharmacy and to meet all terms and  
8 conditions, including the same professional requirements, that are met by a mail service pharmacy for a  
9 drug without financial penalty to the insured.

10 (3) This section may not be construed to prevent a mail service pharmacy from passing on to an  
11 insured any pricing benefit obtained through bulk purchase of a prescription drug.

12 (4) For the purposes of this section, "insured" includes any individual to which the prescription  
13 drug benefit applies.

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15 **Section 3.** Section 33-31-111, MCA, is amended to read:

16 **"33-31-111. Statutory construction and relationship to other laws.** (1) Except as otherwise  
17 provided in this chapter, the insurance or health service corporation laws do not apply to a health  
18 maintenance organization authorized to transact business under this chapter. This provision does not apply  
19 to an insurer or health service corporation licensed and regulated pursuant to the insurance or health  
20 service corporation laws of this state except with respect to its health maintenance organization activities  
21 authorized and regulated pursuant to this chapter.

22 (2) Solicitation of enrollees by a health maintenance organization granted a certificate of authority  
23 or its representatives is not a violation of any law relating to solicitation or advertising by health  
24 professionals.

25 (3) A health maintenance organization authorized under this chapter is not practicing medicine and  
26 is exempt from Title 37, chapter 3, relating to the practice of medicine.

27 (4) This chapter does not exempt a health maintenance organization from the applicable certificate  
28 of need requirements under Title 50, chapter 5, parts 1 and 3.

29 (5) This section does not exempt a health maintenance organization from the prohibition of  
30 pecuniary interest under 33-3-308 or the material transaction disclosure requirements under 33-3-701

1 through 33-3-704. A health maintenance organization must be considered an insurer for the purposes of  
2 33-3-308 and 33-3-701 through 33-3-704.

3 (6) This section does not exempt a health maintenance organization from:

4 (a) prohibitions against interference with certain communications as provided under chapter 1, part  
5 8;

6 (b) the provisions of Title 33, chapter 22, part 19;

7 (c) the requirements of 33-22-134 and 33-22-135;

8 (d) network adequacy and quality assurance requirements provided under chapter 36; or

9 (e) the requirements of Title 33, chapter 18, part 9.

10 (7) Chapter 1, parts 12 and 13, of this title, 33-3-431, 33-15-308, 33-22-131, 33-22-136,  
11 33-22-141, 33-22-142, 33-22-246, 33-22-247, 33-22-514, 33-22-523, 33-22-524, 33-22-526, ~~and~~  
12 33-22-706, and [section 2] apply to health maintenance organizations."

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14 NEW SECTION. **Section 4. Codification instruction.** [Section 2] is intended to be codified as an  
15 integral part of Title 33, chapter 22, and the provisions of Title 33, chapter 22, apply to [section 2].

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17 NEW SECTION. **Section 5. Applicability.** [This act] applies to individual and group policies,  
18 contracts, or agreements for health or disability insurance and to subscriber or membership contracts and  
19 certificates of insurance to provide health care services that are delivered or issued for delivery, modified,  
20 extended, or renewed on or after October 1, 2001.

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